

MINUTES¹

FOURTH REGULAR QUARTERLY MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO RIVER WATER CONSERVATION DISTRICT

October 21 - 22, 2003

Pursuant to notice duly and properly given, the Fourth Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District (CRWCD) was held on Tuesday and Wednesday, October 21 - 22, 2003, at the Hotel Colorado, 526 Pine Street, Glenwood Springs, Colorado.

Directors participating during all or part of the meeting:

Paul Ohri, President	Stephen M. Mathis, Vice President
Warner Dewey	Peter A. Kasper
T. Wright Dickinson	Thomas A. Long
Thomas S. Dunlop	David Smith
Bill Ferguson	Thomas C. Stone
Kathryn H. Hall	William S. Trampe
J. Richard Hunt	

Directors not present:

Wade Collins	Thomas R. Sharp
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Others participating during all or part of the meeting:

Eric Kuhn, Secretary/General Manager, CRWCD
Peter Fleming, General Counsel, CRWCD
Dan Birch, Project Development Manager, CRWCD
Laura Hines, Business Manager, CRWCD
David Merritt, Chief Engineer, CRWCD
Chris Treese, Manager, External Affairs, CRWCD
Laurie DePaolo, Administrative Assistant, CRWCD
Cheryl Dunlap, Senior Accountant, CRWCD
David Kanzer, Senior Water Resources Engineer, CRWCD
Kirstin McMillan, Staff Attorney, CRWCD
Don Meyer, Water Resources Engineer, CRWCD
Martha Moore, Administrative Assistant, CRWCD
Jim Pearce, Senior Water Resources Engineer, CRWCD
Rob Streit, Senior Accountant, CRWCD
Jennifer Sutherland, Records/Information Specialist, CRWCD
Ray Tenney, Senior Water Resources Engineer, CRWCD
Laura Behrends, CRWCD Lobbyist
Jim Broderick, Southeastern Colorado Water Conservancy District
Karla Brown, Colorado Foundation for Water Education
Michael Brod, Colorado Water Resources & Power Development Authority
Paul von Gerhard, United States Geological Survey

¹ A complete record of the meeting has been made on audio cassette tapes. The tapes and the associated staff memoranda are the only complete record of the meeting. These written summaries are intended to record decisions or actions taken by the Board and as an aid to research and a guide to the tapes. The motions described herein may not necessarily represent a verbatim transcription. The tapes are available for listening at the CRWCD during regular office hours. Arrangements may be made to make copies of the tapes or written transcripts of specific agenda items at the requestor's expense. Notes from the meeting may also be reviewed at the CRWCD offices during regular office hours.

Daniel Gibbs, Office of Congressman Udall
Alice Johns, Bureau of Reclamation
James Lochhead, Brownstein Hyatt & Farber, P.C.
Mike McKibbin, Daily Sentinel
James Newberry, Grand County Commissioner
Susan Owens, The Owens Group, Inc.
Glenn Porzak, Porzak, Browning & Bushong, L.L.P.
Robert Spears, Friends of the Colorado River District Committee
Paul Testwuide, Eagle River Water & Sanitation District
Noble Underbrink, Northern Colorado Water Conservancy District
Bob Warner, Eagle River Water & Sanitation District
Danny Williams, CRWCD Lobbyist

Quorum.

President Ohri found a quorum and called the meeting to order at 8:45 a.m.

Review and Approve Meeting Agenda and Objectives.

Director Mathis moved, seconded by Director Ferguson, to approve the agenda for the Fourth Regular Quarterly Meeting of the Board of Directors of the Colorado River Water Conservation District, 2003. Motion carried unanimously.

Approval of Minutes and Actions Taken.

Director Dunlop moved, seconded by Director Mathis, to approve the minutes and actions taken of the Third Regular Quarterly Meeting, July 15-16, 2003, with the correction reflecting that Director Long voted against the motion regarding the Statewide Water Supply Initiative. Motion carried unanimously.

Director Mathis moved, seconded by Director Trampe, to approve the minutes and actions taken of the Special Joint Meeting, Telephone Conference, August 6, 2003. Motion carried unanimously.

Director Trampe moved, seconded by Director Dewey, to approve the minutes and actions taken of the Special Joint Meeting, September 11, 2003. Motion carried unanimously.

Personnel Review Matters.

Paul Ohri recommended that the following be discussed in Executive Session:

- i. Personnel Review Matters with General Manager.
- ii. Personnel Review Matters with General Counsel.

General Counsel's Report - Executive Session.

Peter Fleming reported that the following matters qualify for discussion in executive session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice), (e)(negotiations), and (f)(personnel matters).

- i. C-BT Litigation, Green Mountain Reservoir, Federal District Court.
- ii. Windy Gap Firing Project.
- iii. Blue River Decree - Negotiations with Denver/Summit County.
- iv. Denver North End/Moffat Project.
- v. Black Canyon National Monument Update:
 - a) Case No. 01CW05, Water Div. 4.
 - b) Federal Complaint of Trout Unlimited and Western Resource Advocates.
 - c) Colorado Water Conservation Board Instream Flow Appropriation.
- vi. Upper Gunnison River Water Conservancy District RICD, Case No. 02CW38, Water Div. 4.
- vii. Southeastern Colorado Water Conservancy District - Boustead Tunnel, Case Nos. 02CW365 and

- 02CW324, Water Div. 5.
- viii. Rabbit Ears Project Diligence.
- ix. Peak Ranch, Inc., Case No. 02CW100, Water Division 5.
- x. Southeastern Colorado Water Conservancy District Preferred Storage Options Plan Issues.
- xi. Personnel Issues.

Director Kasper moved, seconded by Director Dewey, to proceed into Executive Session pursuant to C.R.S. §§ 24-6-402(4)(b)(legal advice), (e)(negotiations), and (f)(personnel matters). Motion carried unanimously.

Peter Fleming stated that no further record of the portion of the Executive Session in which legal advice or negotiations is discussed will be kept based on his opinion that the issues constitute privileged attorney-client communications. Discussions on personnel matters will be recorded on a separate tape and retained for 90 days.

General Counsel's Report - Public Session.

Summary from Executive Session:

Peter Fleming stated that during the Executive Session, the Board discussed the following matters:

- i. C-BT Litigation, Green Mountain Reservoir, Federal District Court.
- ii. Windy Gap Firming Project.
- iii. Blue River Decree - Negotiations with Denver/Summit County.
- iv. Denver North End/Moffat Project.
- v. Black Canyon National Monument Update:
 - a) Case No. 01CW05, Water Div. 4.
 - b) Federal Complaint of Trout Unlimited and Western Resource Advocates.
 - c) Colorado Water Conservation Board Instream Flow Appropriation.
- vi. Upper Gunnison River Water Conservancy District RICD, Case No. 02CW38, Water Div. 4.
- vii. Southeastern Colorado Water Conservancy District - Boustead Tunnel, Case Nos. 02CW365 and 02CW324, Water Div. 5.
- viii. Rabbit Ears Project Diligence.
- ix. Peak Ranch, Inc., Case No. 02CW100, Water Division 5.
- x. Southeastern Colorado Water Conservancy District Preferred Storage Options Plan Issues.
- xi. Personnel Issues.

Action Items from Executive Session:

Director Ferguson moved, seconded by Directors Mathis and Trampe, to direct staff to formally declare the River District's intent to abandon the Rabbit Ears Project water rights located within the Muddy Creek basin. Motion carried unanimously.

West Divide Water Conservancy District (WDWCD) Master Agreement:

Peter Fleming reported that the WDWCD signed the letter agreeing to the River District's proposal to transfer title of the Avalanche Canal and Siphon water right from the River District to the WDWCD.

Colorado Water Conservation Board (CWCBC) Proposed Recreation In-Channel Division Policy:

Peter Fleming directed the Board's attention to his October 2003 Quarterly Attorney Report which outlined the proposed policy changes and staff recommendations. The River District staff will present the recommendations to the CWCBC at their next meeting.

Risk Management/Contract Processing Update:

Peter Fleming noted that staff recently met with Ralph Grover, a consultant with Keith & McKuhn, to discuss

how to proceed with a risk management review of the River District's practices and policies. A presentation to the Board will be given at a future meeting.

Approval of Costello & Company, Inc. Auditor Contract:

Staff is still waiting for a response from Costello & Company, Inc. on the River District's proposed contract.

Consent Agenda:

Peter Fleming noted that information on each consent agenda item was provided in the quarterly attorney report and proposed that the Board approve the following item:

- i. **Ratification of Statement of Opposition; Upper Eagle River Regional Water Authority and Eagle River Water & Sanitation District, Case No. 03CW159, Water Division 5.**

Director Mathis moved, seconded by Director Hall, to approve the ratification of a Statement of Opposition in Upper Eagle River Regional Water Authority and Eagle River Water and Sanitation District, Case No. 03CW159, Water Division 5. Motion carried unanimously.

Southwest Data Center Contract Renewal:

Director Dickinson moved, seconded by Director Hall, to approve the contract with Southwest Data Center in the amount of \$2,500.00, to cover services for the year 2004. Motion carried. Director Ferguson abstained from the discussion and voting.

Colorado River Interstate Matters.

Eric Kuhn reported that the new Quantification Settlement Agreement (QSA) had recently been signed by all of the California agencies and thanked Jim Lochhead for his efforts on behalf of the Colorado coalition.

Jim Lochhead described the signing of the QSA as a huge step toward California honoring its obligation to live within its basic apportionment. In addition, the QSA will provide a mechanism for addressing issues such as the challenges associated with the Salton Sea, surplus water for southern Nevada, and operations of upper Colorado River reservoirs.

Presentation by Susan Owens of The Owens Group, Inc. on the Salary Survey.

Susan Owens presented a summary of the 2003 Compensation Study including the purpose, scope, process, results, findings and recommendations. Ms. Owens concluded that, in general, the River District compensation policy, adopted by the Board, is working as intended with only minor adjustments needed.

Presentation by Jim Broderick, General Manager of the Southeastern Colorado Water Conservancy District on the Preferred Storage Options Plan (PSOP).

Jim Broderick's presentation included the historical background of the PSOP, specifications of the plan, and associated legislative efforts.

Budget Hearing.

President Ohri commenced the formal Budget Hearing at 2:20 p.m.

Mr Kuhn noted that the proposed budget was posted on the CRWCD's web site; notice of availability of the proposed budget was published in nine newspapers and copies of the proposed budget were mailed to all County Commissioner offices within the River District with the request that the budget proposals be posted in a public place. No public comment on the budgets was received.

2003 General Fund Budget Amendments.

Director Hall moved, seconded by Director Trampe, to approve the resolution summarizing expenditures and

revenues for the General Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2003 and ending on the last day of December 2003, and that the total be in the amount of \$3,488,690.00. Motion carried unanimously. (The Resolution is attached as Appendix A.)

2004 General Fund Budget.

Director Dickinson moved, seconded by Directors Dunlop and Mathis to approve the resolution summarizing expenditures and revenues for the General Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2004 and ending on the last day of December 2004, and that the total be in the amount of \$3,397,573.00. Motion carried unanimously. (The Resolution is attached as Appendix B.)

Resolution to Transfer 2003 Unspent Balances.

Director Hunt moved, seconded by Director Kasper, to approve the resolution authorizing and directing the budget transfer to the Capital Projects Fund from line items in the General Fund having estimated 2003 unexpended balances greater than anticipated and further authorizing and directing that the funds be transferred effective as of December 31, 2003. Motion carried unanimously. (The Resolution is attached as Appendix C.)

2003 Capital Projects Fund Budget Amendments.

Director Hall moved, seconded by Director Dickinson, to approve the Resolution summarizing expenditures and revenues for the Capital Projects Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2003 and ending on the last day of December 2003, and that the total be in the amount of \$4,142,560.00. Motion carried unanimously. (The Resolution is attached as Appendix D.)

2004 Capital Projects Fund Budget.

Director Dickinson moved, seconded by Director Hall, to approve the resolution summarizing expenditures and revenues for the Capital Projects Fund and adopting a budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2004 and ending on the last day of December 2004, and that the total be in the amount of \$4,043,050.00. Motion carried unanimously. (The Resolution is attached as Appendix E.)

2003 Agency Trust/Special Revenue Fund Budget Amendments.

Director Hall moved, seconded by Director Hunt, to approve the resolution summarizing expenditures and revenues for the Agency Trust Fund and adopting an amended budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2003 and ending on the last day of December 2003, and that the total be in the amount of \$900.00. Motion carried unanimously. (The Resolution is attached as Appendix F.)

2004 Agency Trust/Special Revenue Fund Budget.

Director Dickinson moved, seconded by Director Hall, to approve the resolution summarizing expenditures and the revenues for the Agency Trust Fund and adopting a budget for the Colorado River Water Conservation District, Colorado, for the calendar year beginning on the first day of January 2004 and ending on the last day of December 2004, and that the total be in the amount of \$600.00. Motion carried unanimously. (The Resolution is attached as Appendix G.)

Resolution to Appropriate Sums of Money.

Director Hall moved, seconded by Director Mathis, to approve the resolution appropriating sums of money to the various funds in the amounts and for the purposes as set forth below, for the Colorado River Water

Conservation District, Colorado, for the 2004 budget year, and that the amounts be General Fund, \$3,397,573.00; Capital Projects Fund, \$4,043,050.00; Agency Trust Fund, \$5,250.00 and that the Special Revenue Fund be zero. Motion carried unanimously. (The Resolution is attached as Appendix H.)

Presentation by Karla Brown of the Colorado Foundation for Water Education.

Karla Brown reported on the creation, mission and vision of the Colorado Foundation for Water Education. Director Kasper moved, seconded by Director Mathis, for the River District to contribute \$2,000.00 to the Foundation by the end of 2003, for the purpose of becoming a charter member of the Colorado Foundation for Water Education. Motion carried unanimously.

General Manager's Report.

Approval of Investment Policy Changes:

Eric Kuhn noted that the minor changes to the River District's Investment Policy include changing the name of the investment firm of Langhoff Brooks & Company to Kirkpatrick Pettis Capital Management and that Rob Streit replace Earline West as the designee responsible for overseeing the purchasing of River District investments.

Director Dunlop moved, seconded by Director Hunt, to approve the changes to the CRWCD Investment policy as outlined in the October 21, 2003 redlined revision. (The October 21, 2003 version is attached as Appendix I.)

Gunnison River Basin Issues:

Eric Kuhn drew the Board's attention to the October 14, 2003 memo prepared by Ray Tenney which addressed the issues associated with the Upper Gunnison River Water Conservancy District's augmentation options within Lake San Cristobal. Mr. Tenney will continue to monitor the progress and development of objectives for the lake.

Water Administration Fee Rules:

Extensive discussion included objections to proposed Rule 3.A.1.b and Rule 6.E through I.

Director Dickinson moved, seconded by Director Trampe, to direct staff to formally object to the State Engineer's proposed rules governing the water administration fee program and to submit the relevant comments stating our opposition. Motion carried unanimously.

Department of Natural Resources Core Mission:

Mr. Kuhn noted that the Colorado Department of Natural Resources "core mission" study includes a preliminary suggestion to raise the State Engineer's review fees to 2% of the cost of the dam construction, which in the case of the enlargement of Elkhead could result in a \$300,000.00 fee rather than the current \$3,000.00. Staff will submit comments on this proposal.

Legislative/ Public Affairs Update.

Information and Outreach Committee Report:

Chris Treese reported that Director Kasper had been selected as Chairman of the River District's newly formed Information and Outreach Committee.

Director Kasper moved, seconded by Director Dunlop, that the \$5,000.00 which was originally earmarked for a follow-up survey to be conducted by Hill & Associates instead be added to the 2003 education campaign when it resumes in mid-November and for the idea of a follow-up survey to be addressed in six months. Motion carried unanimously.

Staff was directed to provide each Director with a list of newspapers that received the four H2Oh! articles. Directors Dickinson, Dunlop, Ferguson, Mathis and Ohri each offered to personally distribute the River District produced "Water Reference Guides" to their local newspaper editors.

Discussion of Referendum 4A Issues:

Bob Spears, Chairman of the Friends of the Colorado River District Committee, reported that of the roughly 100 who received a letter asking for donations nearly thirty contributed. This is a greater percentage of contributions than during the 2002 campaign. Mr. Spears noted that radio spots were to begin airing October 22nd and encouraged each Director to submit editorials to their local newspapers in support of Referendum 4A.

Federal Issues:

Chris Treese noted that staff recently submitted comments to the Bureau of Reclamation regarding their Water 2025: Preventing Crises and Conflict in the West initiative.

Mr. Treese reported that the Grand Mesa - Uncompahgre - Gunnison National Forest Pathfinder Project is nearing completion with the creation of a list of tools for the forest service to use in the management of the forest. Subsequent to reviewing the list, staff was directed to formally oppose the bypass flows and if the bypass flows cannot be precluded, to seek explicit recognition for compensation of water rights lost due to National Forest Service bypass flow permit conditions.

Legislative Interim Committee Discussion:

Chris Treese referred to his October 9, 2003 memo which outlined the bills under consideration by the Interim Water Resources Review Committee and others presently under discussion for the 2004 session. From the list, staff was directed to monitor the following issues: the concurrent resolution to increase state sales tax to 0.25 for the protection of natural resources; and the debate on the State debt for "Critical Infrastructure," including water storage.

Discussion of Basin of Origin Protection.

Chris Treese drew the board's attention to his October 6, 2003, memo on basin of origin which, in part, outlined alternative approaches to basin of origin protection currently being explored. Board discussion included the issues associated with:

- 1) The imprecise language of the Conservancy District Act which could allow for flexibility in how the "cost to water users shall not be increased" provision is applied. Concern was expressed on the potentially detrimental impact to water quality due to reduced dilution flows.
- 2) The requiring of prior approval from the Water Conservancy and Water Conservation Districts where the transbasin diversion structure will be located, assuring local control and a water focus and allowing for infinite flexibility in the type of mitigation required to protect the basin of origin.
- 3) Payment for new diversions as well as water transfers, i.e., agricultural water to municipal use in another basin.

President Ohri recessed the meeting at 5:32 p.m.

Wednesday, October 22, 2003

Quorum.

President Ohri found a quorum and called the meeting to order at 8:09 a.m.

Project Status.

Jim Pearce gave an overview of the interrelated facets of the Upper Colorado River Basin Study, the Eagle River Memorandum of Understanding, Douglas County Water Authority Study, and the Preferred Storage Options Plan. Addressed in the presentation were the issues associated with expanded water rights, analysis of NEPA findings, water quality and recreation, compliance with the Conservancy Act, and basin of origin protection.

Statewide Water Supply Initiative (SWSI) Report:

Dan Birch reported that the River District has and will continue to participate in the basin level round table discussions.

Treasurer's Reports for Third Quarter of 2003.

Eric Kuhn reviewed the investment reports prepared by Langhoff Brooks and Company.

Director Hunt moved, seconded by Director Trampe, to accept and approve the Treasurer's Reports for the Third Quarter of 2003. Motion carried unanimously.

Presentation on Eagle River Issues.

In addition to the points discussed in his October 14, 2003 memo, Glenn Porzak reminded the board that although, under the Eagle River Memorandum of Understanding, Colorado Springs and the City of Aurora have restricted amounts of water available, access to the vast amount available to Denver Water should be addressed. Subsequent to extensive board discussion, the following motion was made:

Director Mathis moved, seconded by Director Dickinson, to recommend to the board of the directors of the Colorado River Water Projects Enterprise of the Colorado River Water Conservation District to contribute \$25,000.00 toward a feasibility study of a new reservoir near Wolcott, Colorado. Motion carried unanimously.

Division Engineers' Reports.

Alan Martellero, Division 5 Engineer, reported that the municipalities of Silt, Rifle, Battlement Mesa and Clifton have all expressed concern regarding water quality during the anticipated reduction of flows next spring. The Shoshone Power Plant is scheduled to under go extensive repair work from February through May 2004.

Future Meetings.

- a. First Regular Quarterly Meeting, **January 20-21, 2004.**
- b. Second Regular Quarterly Meeting, **April 20-21, 2004.**
- c. Third Regular Quarterly Meeting, **July 20-21, 2004.**
- d. Fourth Regular Quarterly Meeting, **October 19-20, 2004.**
- e. Board or Executive Committee Workshop to Discuss:(**Need to Schedule**)
 - i. Risk Management/Board Governance.
 - ii. SWSI Update and Input.
 - iii. 2004 Legislation.
 - iv. District Priorities and Basin Plans for 2004.
 - v. Discussion on Water Development Plans and Realities.
- f. Other Meetings:
 - i. CRWUA Convention, Las Vegas, NV **December 11-12, 2003.**
 - ii. CWC Winter Convention, Northglenn, CO **January 29-30, 2004.**

Adjourn.

There being no further business before the Board, President Ohri adjourned the meeting at 9:46 a.m.

Paul Ohri, President

ATTEST:

R. Eric Kuhn, Secretary/General Manager

Executive Session Attestations.

I hereby attest that the portions of the Executive Session that were not recorded constituted privileged attorney-client communications.

Peter Fleming, General Counsel

I hereby attest that the portions of the Executive Session that were not recorded was confined to the topics authorized for discussion in Executive Session.

Paul Ohri, President